

Food Processing Business

A “food processing business” is any business that produces a food item designed for human consumption.

“Food” means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

“Food processing plant” means a commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to a Consumer.

You may be surprised to find that starting a food business is not as simple as it may sound. Like any small business, food enterprises require careful planning, dedication, and skilled management to be successful. But the food business is unique when compared to most other types of businesses. The food you produce can have a direct effect on your customers' health and safety. In fact, a food product that has been improperly processed could cause serious illness or even death. Consequently, a business that makes or sells food products must comply with a number of complex and often confusing federal, state, and local regulations.

Do not make any plans or begin any operations until you are sure that you have complied with all federal, state, and local regulations and zoning rules related to food production, processing and sales. This includes the construction of your facility as well as preparation and labeling. It is advisable to meet with the local health department before you begin planning your business, to make sure that you understand all of the regulations that your food business will be required to meet. For a list of county health department offices, refer to <http://www.dhss.state.mo.us/PublicHealthAgencies.htm>. A copy of the “1999 Missouri Food Code” (most current) that outlines the state and federal regulations related to food, food processing and food establishments can be found on the web at (caution this document is 107 pages long) <http://www.dhss.state.mo.us/Publications/FoodCode99.html>

Missouri regulations prohibit the operation of a food-processing establishment in a kitchen that is also used for family cooking. A separate kitchen that is closed off from the rest of the home is required. The equipment is also regulated. Generally, you can't take your home kitchen equipment into the business kitchen to use some of the time and take it back into the household kitchen whenever you like.

To produce and sell food for human consumption, your food business must conform to Good Manufacturing Practices (GMPs). GMPs were designed and instituted by the federal government to ensure that foods are manufactured, processed and handled in a safe and sanitary manner. To operate and maintain your business, you must meet the conditions as set out in the GMPs. If a complaint is filed against you or your product, a GMP inspection by the FDA or state is likely to occur. GMPs include the following areas:

- Facility and grounds
- Equipment and procedures
- Sanitary facilities and controls
- Sanitary operations
- Processes and controls
- Personnel

For more information on GMPs, refer the FDA's web site at <http://www.fda.gov/cdrh/devadvice/32.html>

Hazard Analysis Critical Control Points (HACCP) is a systematic approach to food safety. HACCP involves assessing hazards associated with potentially hazardous foods (foods and/or food ingredients

high in protein and low in acid, such as meat, poultry, fish, eggs, and dairy products.) Currently, HACCP is mandated in the seafood and meat processing industries. However, all food processors and food service establishments will likely be required by federal and state regulatory agencies to implement HACCP programs. A lot of information about HACCP is available. A good starting point is U.S. Food and Drug Administration (FDA) website <http://www.cfsan.fda.gov/~comm/haccpov.html>

Because most food processing facilities generate waste, you need to consider its disposal when you are planning and constructing your facility. State and local laws prohibit the discharge of any biological waste into public waterways or local sanitary sewers without proper permits. For more information, contact the Department of Natural Resources, Technical Assistance Program at 1-800-361-4827 or on the web at: <http://www.dnr.state.mo.us/oac/index.html>

If you wish to sell your product in retail stores, you should obtain an UPC code for your product. This code is a series of bar codes that allows your products to be scanned at the checkout. There is a minimum of \$750 to obtain the code. To obtain a UPC code for your product, contact the Uniform Code Council, 7887 Washington Village Drive, Suite 300, Dayton, Ohio 45459; phone (937) 435-3870.

Product labeling isn't only a marketing consideration. There are specific regulations regarding the information you provide on your label including nutritional information, weight, contents, etc. An online information source is *A Food Labeling Guide*, available from the Food and Drug Administration Center for Food Safety and Applied Nutrition, <http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm>

A short overview of labeling basics can be found at <http://www.acenetworks.org/frames/framesfoodventures.htm>

The Missouri Weights and Measures Division inspect and certify the accuracy of scales used to weigh merchandise. In addition, they deal with quantity declaration; prominence and placement labeling requirements for consumer and non-consumer packages; requirements for specific commodities, packages, and containers; variations and exemptions allowed; and retail sale price representations. For more information regarding state regulations regarding packaging and labeling issues and inspection of scales or other commercial weighing and measuring devices contact: Missouri Department of Agriculture, Weights and Measures Division, Device and Commodity Inspection Program, P.O. Box 630, Jefferson City, MO 65102-0630; Phone: 573-751-5639

SPECIAL NOTICE:

October 12 Start of Registration of Food Facilities under the Bioterrorism Act of 2002

In response to increased security threats post-September 11, 2001, Congress passed the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act), which President Bush signed into law June 12, 2002. Under this act all domestic and foreign food facilities that manufacture, process, pack or hold food for human or animal consumption in the U.S. will be required to register with the U.S. Food and Drug Administration by December 12, 2003. There is no registration fee but failure to register could result in civil or criminal action. If foreign facilities fail to register and also attempt to import food into the U.S., the Bioterrorism act requires that the food be detained at the cost of the private parties involved (i.e. the owner, purchaser, importer, or receiver of the food).

Registration will begin on October 12, 2003; registrations submitted before October 12, 2003 will not be accepted. Registration may be electronic, via the Internet, or by paper through surface mail. However the FDA strongly recommends electronic registration because registering facilities will receive confirmation of electronic registration and a registration number instantaneously. Registration by mail may take several weeks to several months. On October 12, 2003 the FDA will publish a final registration rule and launch an electronic registration system. Registration is the first in a series of measures to

increase security of U.S. food imports. Subsequent measures will include regulations for the establishment and maintenance of records and prior notice of imported food shipments. WAIBL will provide updates on these measures in the months ahead. For additional information on the Bioterrorism Act and a sample registration form please visit www.fda.gov <<http://www.fda.gov>>.

For further information and assistance:

The **Missouri Department of Agriculture's Ag Business Development Division** provides information, training and on-on-one assistance to Missouri's agriculture producers. The division's primary objective is to help Missouri farmers enhance farm profitability by building successful businesses and promoting Missouri agriculture through the AgriMissouri brand. In addition to helping producers grow, market, and process their commodities in new ways, the staff works with agriculture professionals across the nation.

Ag Business Development Division, Missouri Department of Agriculture, P.O. Box 630, Jefferson City, Missouri 65102; Phone toll-free: 1-866-466-8283; Email: agrimo@mail.mda.state.mo.us; Web: www.mda.state.mo.us

The Appalachian Center for Economic Networks (ACEnet) provides a wide variety of information on starting and operating food processing business, including "Food Industry Resources & Worksheets." Check out their information and links to other organizations and publications at: <http://www.acenetworks.org/frames/framesfoodventures.htm>

Additional information on state and federal regulations for food processing is available from the following:

US Food and Drug Administration, information on food labeling and nutrition: <http://www.cfsan.fda.gov/label.html>

U. S. Food and Drug Administration, Center for Food Safety and Applied Nutrition, "Starting a Food Business" <http://www.cfsan.fda.gov/~comm/foodbiz.html>

"Information Materials for the Food and Cosmetics Industries", CFSAN (Center for Food Safety & Applied Nutrition at <http://vm.cfsan.fda.gov/~dms/industry.html>

Legal Structure

Anyone conducting business in the State of Missouri under a name other than their own legal name (e.g., John Doe), must register the business name with the Missouri Secretary of State. Missouri law allows businesses to operate under four forms or organization:

- sole proprietorship
- partnership – general and limited
- corporation -- C-Corp; S-Corp; Professional, Not-for-Profit; Foreign
- limited liability company – LLC

Each structure has its own advantages and disadvantages and there are many modifications and variations within these forms. The key to selection revolves around the concept of liability and taxation. You must decide which of these structures best suits your business. In choosing your business structure, consult with a qualified accountant and/or attorney who are familiar with your resources and objectives.

A description of the forms of organization and some of the advantages and disadvantages are discussed in *Starting A New Business In Missouri*. You can download forms on the web at: <http://www.ded.state.mo.us/business/startabusiness/legalstructures.shtml> or contact the Secretary of State's Office at (573) 751-3200.

Taxes

Understanding the taxes that apply to your business and how to meet the legal requirements of those taxes is critical. Consultation with an accountant or attorney is advisable.

Tax considerations are essential during the formation of a new business and during its entire life. When a business is just starting out, it may have little or no income or assets and the choice of structure may not seriously affect its tax liability. However, as the business grows, the tax implications become more significant.

Choosing a particular structure does not necessarily determine how the business will be taxed. The table found on page 26 of *Starting A New Business in Missouri* identifies the state and federal forms that must be filed for different business structures and compares the tax liabilities for the most common business structures.

Tax responsibility includes federal, state and local taxes. As a business owner you will be responsible for income taxes, payroll taxes, property tax and other miscellaneous taxes.

Any business making retail sales must obtain a Missouri Retail Sales License from the Missouri Department of Revenue. A bond, based on projected monthly gross sales is posted at the time of application. An application form (Form #2643) can be obtained from the Dept. of Revenue on the web at <http://www.dor.state.mo.us/dorforms.htm> or by calling 1-800-877-6881. Generally, a wholesaler or manufacturer will present a Sale/Use Tax Exemption Certificate (Form #149) to the seller showing the sale is exempt from sales tax.

For more information on taxes and access to printable copies of the required forms visit: <http://www.ded.state.mo.us/business/startabusiness/business taxes.shtml>

Hiring Employees

Obtain a "Business Tax Kit" and a copy of "Circular E, Employer's Tax Guide" from your local IRS office or call 1-800-829-3676. "Circular E" explains federal tax withholding and Social Security tax requirements for employers as well as containing up-to-date withholding tables for you to use to determine how much federal income tax and Social Security tax is to be withheld from each employee's paycheck.

What Is Involved?

- Once you begin paying salary or wages to employees, you must collect taxes from your employees. The primary taxes are: federal and state income taxes, Social Security (FICA) and Medicare taxes.
- If you have not already done so, you must apply for a federal employer identification number (EIN) -- Form SS-4. This number is used to identify your business on payroll and income tax returns, as well as for other federal tax purposes. Corporations and partnerships must file Form SS-4 even if they have no employees.
- Have each employee complete an I-9 Employment Eligibility Verification Form and a W-4 form.
- Missouri require that all employers in Missouri report each newly hired employee to the Department of Revenue within 20 calendar days of hire.

For more information on your responsibilities as an employer, please contact our office or your local Workforce Development Career Center (formerly Job Service). To locate the nearest office, check the phone book or call (573) 751-3999 or http://www.works.state.mo.us/es_offices/index.htm

For a complete discussion on hiring employees, your responsibilities, and access to the required forms, refer to: <http://www.ded.state.mo.us/business/startabusiness/becominganemployer.shtml>

Resources:

In addition to information on the legal requirements, we think that you will find the following information helpful as you begin your business:

You can download copies of ***Starting a New Business in Missouri*** at:

<http://www.ded.state.mo.us/business/pdfs/startuppacket.pdf>

and ***Doing Business in Missouri*** at:

<http://www.ded.state.mo.us/business/startabusiness/doingbusinessinmissouri.shtml> two excellent publications on the process of starting and operating a business in Missouri.

Evaluating Your Business Idea www.umsi.edu/~smallbus/Evalbus.pdf

Guide to Writing A Business Plan www.umsi.edu/~smallbus/BusplanG/BusplanG.pdf

The Missouri Business Development Network is a partnership of the key resource providers in Missouri. Their website contains a vast array of helpful documents, links and information on starting and operating your small business. In addition, it contains a calendar of upcoming training and educational events throughout Missouri. www.missouribusiness.net

For information on resource providers and business counselors, refer to:

http://www.missouribusiness.net/service_centers.asp

For Information on local (city or county) requirements, contact the City Clerk and/or County Clerk. A list of county clerks is found on the Web at www.sos.state.mo.us/elections/countyclerks.asp

Missouri Lawyer Referral Service

Kansas City: (816) 221-9473 (Clay, Jackson, Platte & Ray counties)

St. Louis City & County: (314) 621-6681

Springfield/Greene County: (417) 831-2783

Rest of Missouri: (573) 636-3635

Web at <http://www.mobar.org/pamphlet/referral.htm>

Missouri Society of Accountants 1-800-959-4276

Web at: <http://www.missouri-accountants.com>

(Information for this guide was adapted from: "Starting A Food Processing Business in Virginia", Virginia Cooperative Extension and "Starting a Food Processing Business?", Alabama Cooperative Extension)